

**FILED**

NOV 21 2014

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JIMMY SHEPPARD,

Plaintiff.

v.

AUDREY KING, et al.,

Defendants.

No. C 14-04546 BLF (PR)

**ORDER ADDRESSING PENDING  
MOTION**

(Docket No. 3)

On October 10, 2014, Plaintiff filed a complaint pursuant to 42 U.S.C. § 1983.<sup>1</sup> On the same day, Plaintiff filed a “Motion to file civil rights complaint *In Forma Pauperis* without being subject to Prison Law Reform Act.” (Docket No. 3.) In the motion, Plaintiff states that he is not a “prisoner,” but a civil detainee held pursuant to California’s Sexually Violent Predator Act (“SVPA”). (*Id.* at 1.) Plaintiff claims that he is indigent, and because he is not subject to the PLRA, he requests leave to proceed *In Forma Pauperis* (“IFP”) without being subject to the filing fee.

Plaintiff is correct that as civil detainee under the SVPA, he is not a “prisoner”

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<sup>1</sup>This matter was reassigned to this Court on November 12, 2014, after Plaintiff failed to file consent to proceed before a magistrate judge. (*See* Docket No. 7.)

1 within the meaning of 28 U.S.C. § 1915. *See Page v. Torrey*, 201 F.3d 1136, 1139-40  
2 (9th Cir. 2000) (holding that the financial reporting and full filing fee requirements of §  
3 1915(a)(2) & (b), and the administrative exhaustion procedures of § 1997e, does not  
4 apply to an individual civilly committed pursuant to California's Sexually Violent  
5 Predators Act as he is not "prisoner" within meaning of 28 U.S.C. § 1915). However,  
6 Plaintiff must still file a non-prisoner IFP application by which this Court may properly  
7 assess Plaintiff's indigency status. Accordingly, Plaintiff's motion is DENIED without  
8 prejudice.

9 The Clerk shall enclose a copy of the court's non-prisoner IFP application with a  
10 copy of this order to Plaintiff. Plaintiff must file the completed application **no later than**  
11 **twenty-eight (28) days** from the date this order is filed.

12 **Failure to file a response in the time provided will result in the dismissal of**  
13 **the action for failure to pay the filing fee without further notice to Plaintiff.**

14 This order terminates Docket No. 3.

15 **IT IS SO ORDERED.**

16  
17 DATED: 11-21-2014

  
BETH LABSON FREEMAN  
United States District Judge